Implementation of Conditions of an Energy Project Certificate & Energy Operation Certificate

A Technical Discussion Paper

Province of
British Columbia

Ministry of
Energy, Mines and
Petroleum Resources
ENERGY RESOURCES DIVISION
PROJECT ANALYSIS BRANCH

Implementation of Conditions of an Energy Project Certificate & Energy Operation Certificate

A Technical Discussion Paper

May, 1983

Project Analysis Branch
Energy Resources Division
Ministry of Energy, Mines and Petroleum Resources
Victoria, British Columbia

Canadian Cataloguing in Publication Data

Main entry under title:

Implementation of conditions of an energy project certificate & energy operation certificate

Cover title.
ISBN 0-7719-9195-9

1. Energy development — Law and legislation — British Columbia. 2. Energy policy — British Columbia. 3. British Columbia. Utilities Commission Act. I. British Columbia. Energy Resources Division. Project Analysis Branch.

KEB376.146 346.71104'679 C83-092130-3

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INTRODUCTION

British Columbia's *Utilities Commission Act*, R.S.B.C., 1980, c. 60 as amended (the Act) provides for the review and certification of major energy projects. This is achieved through the "energy project review process."[1] All major proposals involving the generation, use, storage and trans-shipment of electricity or liquid and gaseous hydrocarbons are considered "regulated projects". The Act specifies that for all "regulated projects", an application for an Energy Project Certificate is required before construction.[2] An Energy Operation Certificate may be required before operation.

The Act provides that certification of an energy project can be subject to conditions which establish specific responsibilities of the Certificate holder. The purpose of this paper is to outline the scope of such conditions and means for their implementation.

Thus, this paper describes the statutory basis of conditions and how they are established as a tool for management of energy project impacts. Most activities in implementing conditions occur in collaboration with a proponent. However, emphasis has been placed on outlining the activities, responsibilities and general organization of government agencies.

As with any management process, it is necessary to adapt in light of experience and particular needs. Hence, this discussion paper presents principles and general organization for implementing conditions and not particulars. This is a technical discussion paper and does not alter the Act, its regulations or other statutes of British Columbia, nor is it a formal statement.

Comments or suggestions are invited, and should be directed to:

Director
Project Analysis Branch
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Legislative Buildings, Victoria, British Columbia V8V 1X4

[1] For details, see *Guide to the Energy Project Review Process*, 1982, Project Analysis Branch, Energy Resources Division, Ministry of Energy, Mines and Petroleum Resources.

[2] Section 16 of the Act defines "regulated projects" in detail. These include major energy generation, transport or use projects. Appendix One includes this section.

CONDITIONS: THEIR STATUTORY BASE

The Act provides for project approval and establishment of conditions in one of three ways: by Cabinet, by the British Columbia Utilities Commission (the Commission), or by the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment. Conditions can encompass public concerns in a general or specific manner. They must, however, fall within the scope of the Act and cannot, except where provided specifically, alter the requirements or procedures of other statutes.

The first option, pursuant to Section 19 (1) (a), is to refer an application to the Commission for review. Following receipt of the Commission's report and recommendations, Cabinet may order that:

- The Energy Project Certificate applied for be refused.
- The Energy Project Certificate be issued, subject to conditions considered to be in the public interest. These conditions may include:
  - — a requirement that natural gas be supplied only under contract with the B.C. Petroleum Corporation and the project operator, and be subject to terms specified;
  - — an approval, licence or permit under the *Waste Management Act* and *Water Act* be issued;
  - — other conditions considered necessary be included in an Energy Operation Certificate; and
  - — any requirement considered necessary respecting the submission of a report after project completion.

The Act further states that on completion of the construction of a regulated project, the Certificate holder shall submit a report to the Minister of Energy, Mines and Petroleum Resources. Cabinet, on being satisfied that the conditions of the Energy Project Certificate have been substantially complied with, shall issue an Energy Operation Certificate and may include in the Energy Operation Certificate, conditions specified above (*see* Section 21 (3)).

The second option for project approval and establishment of conditions applies only to public utilities. Pursuant to Section 19 (1) (b), the Minister of Energy, Mines and Petroleum Resources has the option of ordering that an application be dealt with directly by the Commission under Part 3 of the Act. The Commission may then establish various conditions of approval, as it is empowered to do in its regulation of public utilities.

The third option comes under Section 19 (1) (c), where the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment, may, by order, exempt a project from any specified provisions of the Act. An Energy Project Certificate is not issued and an Energy Operation Certificate is not required. However, an order may include any public interest conditions that could be included in an Energy Project/Operation Certificate.

The Act also contains provisions to enforce compliance with the conditions of approval (*see* Section 124 as amended). Where a Certificate holder contravenes the terms of an Energy Project/Operation Certificate, or a Ministerial Order, the Act provides that construction or operation may be restrained in a proceeding brought by the Minister of Energy, Mines and Petroleum Resources in the Supreme Court or the Certificate/Order may be revoked. Fines of up to $10,000 per offence may be imposed.

In order to enforce approval conditions, the Act provides that detailed matters may be delegated to specific authorities (*see* Section 25 (1) as amended). See Appendix Three for an example of delegation.

ENERGY PROJECT REVIEW PROCESS

The steps of planning, review, approval and implementation of major energy projects in British Columbia are outlined in Figure 1. B.C. Regulation 338/80, pursuant to the Act, requires that an application for an Energy Project Certificate contain information on the proposed project, including:

> *"Identification and preliminary assessment of any impacts by the project on the physical, biological and social environment; and proposals for reducing negative impacts and obtaining the maximum benefits from positive impacts"* (*see* Appendix Two).

Before an Energy Project Certificate can be issued, the information requirements of Regulation 388/80 must be met. The resulting conditions specified in an Energy Project Certificate will generally reflect an "approval-in-principle" level of detail. In the process of finalizing detailed plans, it is anticipated that there may be minor adjustments prior to, and during, the construction of approved projects.

In many cases, the information supplied with an application will be limited by the difficulty, or excessive cost, of anticipating environmental and socio-economic impacts. Some impacts can be predicted as certain or probable consequences of an energy development project, and mitigative measures can be specified. However, some impacts cannot be predicted and precisely defined in the planning stages and other impacts cannot be fully assessed until actual construction or operation begins. Therefore, some project impacts must be identified and managed as they arise. This means there must be provision for identifying and responding to impacts before, during and after construction.

The planning and review of major energy projects will normally identify clearly defined impacts which are a direct consequence of development, as well as some uncertain impacts which cannot be fully predicted during the planning phases.

FIGURE 1

OUTLINE OF PLANNING AND IMPLEMENTATION PROCESS FOR MAJOR ENERGY PROJECTS IN BRITISH COLUMBIA

PHASE	FUNCTIONS
PRE-APPLICATION	Initial Consultation and Studies — Project description — Data collection — Review of preliminary and proposed studies — Review of terms of reference for preparation of application
APPLICATION	Presentation of Studies — Project justification — Identification and assessment of impacts — Proposals for mitigation/compensation — Proposals for field inspection and monitoring — Identification of data deficiencies/uncertainties
PUBLIC HEARING*	Evaluation of Studies — Review of design plans — Elaboration of impact assessment — Refinement of mitigation/compensation and implementation proposals — Further evaluation and clarification of data and deficiencies
ENERGY PROJECT CERTIFICATE	Approval-in-Principle and Conditions — Approval of design and location — Certificate conditions: mitigation/compensation measures — Certificate conditions: contingency planning measures — Establishment-in-principle of surveillance and monitoring responsibilities
OTHER PERMITS	Specific Approvals and Conditions — Issuance of permits and approvals under other statutes — Detailed conditions by statute — Conditions from all sources incorporated into contract specifications
PRE-CONSTRUCTION	Site Interpretation of Conditions — Field review of specifications and regional liaison — Finalization of construction procedures and mitigation measures — Finalization of surveillance and monitoring programs by responsible agencies — Collection of additional baseline monitoring data if required
CONSTRUCTION	Implementation of Conditions — Field adjustment to design plans as required — Surveillance of compliance with conditions — Monitoring of environmental/socio-economic conditions — Contingency response to impacts
POST-CONSTRUCTION	Implementation of Conditions/Compliance with Certificate — Surveillance of compliance with conditions — Monitoring of environmental/socio-economic conditions — Additional remedial measures as required — Evaluation of substantial compliance with certificate
ENERGY OPERATION CERTIFICATE	Operational Conditions — Further conditions as necessary — Surveillance and monitoring as required

* This assumes disposition of an application under Section 19 (1) (a) of the Act and the issuance of an Energy Project/Operation Certificate. Disposition under Section 19 (1) (c) does not result in a public hearing or issuance of an Energy Operation Certificate. A ministerial order would replace the Energy Project Certificate.

Figure 2 outlines the general steps in developing and implementing conditions. *"Mitigation/compensation" conditions* refer to known stipulations and measures which require implementation as part of an approved development plan. They include impact mitigation measures which address relatively distinct and predictable impacts. General compensation requirements and/or procedures can also be specified in the conditions.

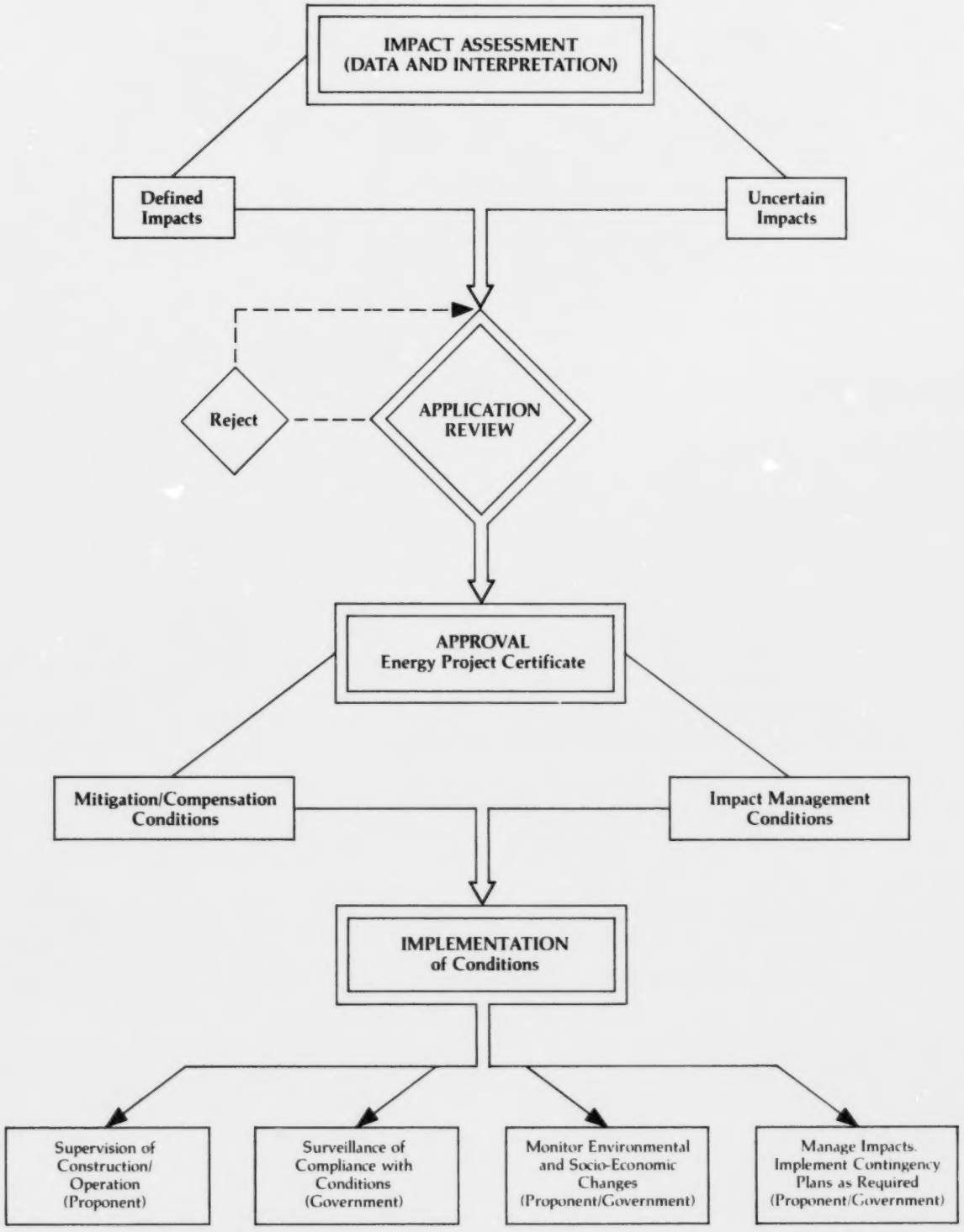
"Impact management" conditions refer to measures for managing uncertain or unforeseen impacts. They include appropriate contingency procedures to ensure that impacts are identified as they arise, and are responded to by the proponent and/or responsible agencies.

Thus, conditions of an Energy Project Certificate could encompass procedures for ensuring the implementation of both "mitigation/compensation" measures and "impact management" plans. Their implementation involves proponent supervision and government surveillance of construction, environmental and socio-economic monitoring, and impact management for responding to unforeseen impacts.

Conditions can address all matters considered to be in the public interest and that are within the scope of the Act. It is anticipated that an Energy Project Certificate will incorporate these types of conditions, which are based on Regulation 388/80. Matters specifically related to other statutes would be regulated using the normal approvals, permits and licences issued under them. Consultation within government will ensure coordination of conditions arising from various statutory requirements.

FIGURE 2

APPROVAL AND IMPLEMENTATION OF CONDITIONS



IMPLEMENTATION OF CONDITIONS

Activities

The four interrelated activities involved in implementing conditions are:

1. *Supervision (Inspection)* This involves proponent activities to ensure that construction and operation comply with conditions and contract specifications.
2. *Surveillance* This involves government activities to ensure compliance with the specific conditions attached to the authorization to construct. (This is the field verification and enforcement aspect of government requirements).
3. *Monitoring* This involves systematic observation and measurement of environmental, socio-economic conditions which may be affected by the project, and interpretation of this data by the proponent or government to facilitate ongoing management of project impacts.
4. *Management* This involves government or proponent response to impacts, by taking the necessary remedial action to avoid or mitigate adverse impacts or to maximize beneficial impacts.

The particular nature, scope and delegation of these activities will vary with each project. For major projects, the existing resource management and social service agencies of government will likely have a role in surveillance, monitoring and management during construction and operation. The provincial agencies involved in energy projects and their areas of interest in project approval and monitoring are outlined in Appendix Four. Such activities may be part of their normal program responsibilities. However, the addition of responsibilities related to an Energy Project Certificate could require supplementary personnel.

Responsibilities

Responsibility for supervision of construction and operation activities lies with the holder of an Energy Project/Operation Certificate. This includes ensuring that conditions of certification are adequately implemented by contractors. Proponents may also be assigned responsibility for monitoring impacts of the projects, possibly in conjunction with government agencies.

Responsibilities for surveillance to ensure compliance with conditions can be designated in an Energy Project/Operation Certificate. The responsibilities of provincial government agencies in facilitating compliance with conditions can be specified. An example of a Ministerial Order for a project approved under Section 19 (1) (c) is in Appendix Three.

For licences, permits and approvals issued under the *Water Act* and *Waste Management Act* and issued in accordance with Section 21 (1) (c) of the Act, surveillance procedures could be administered by the Ministry of Environment.

The organization of tasks for the implementation phase will reflect upon the impacts of a particular project. The sequence for ensuring compliance with conditions is shown in Figure 3. The particulars of organization will depend upon:

— the legal powers and responsibilities to ensure compliance with statutory approvals issued for a project;

— the administrative authority to manage natural resources, facilities, services and communities affected by a project;

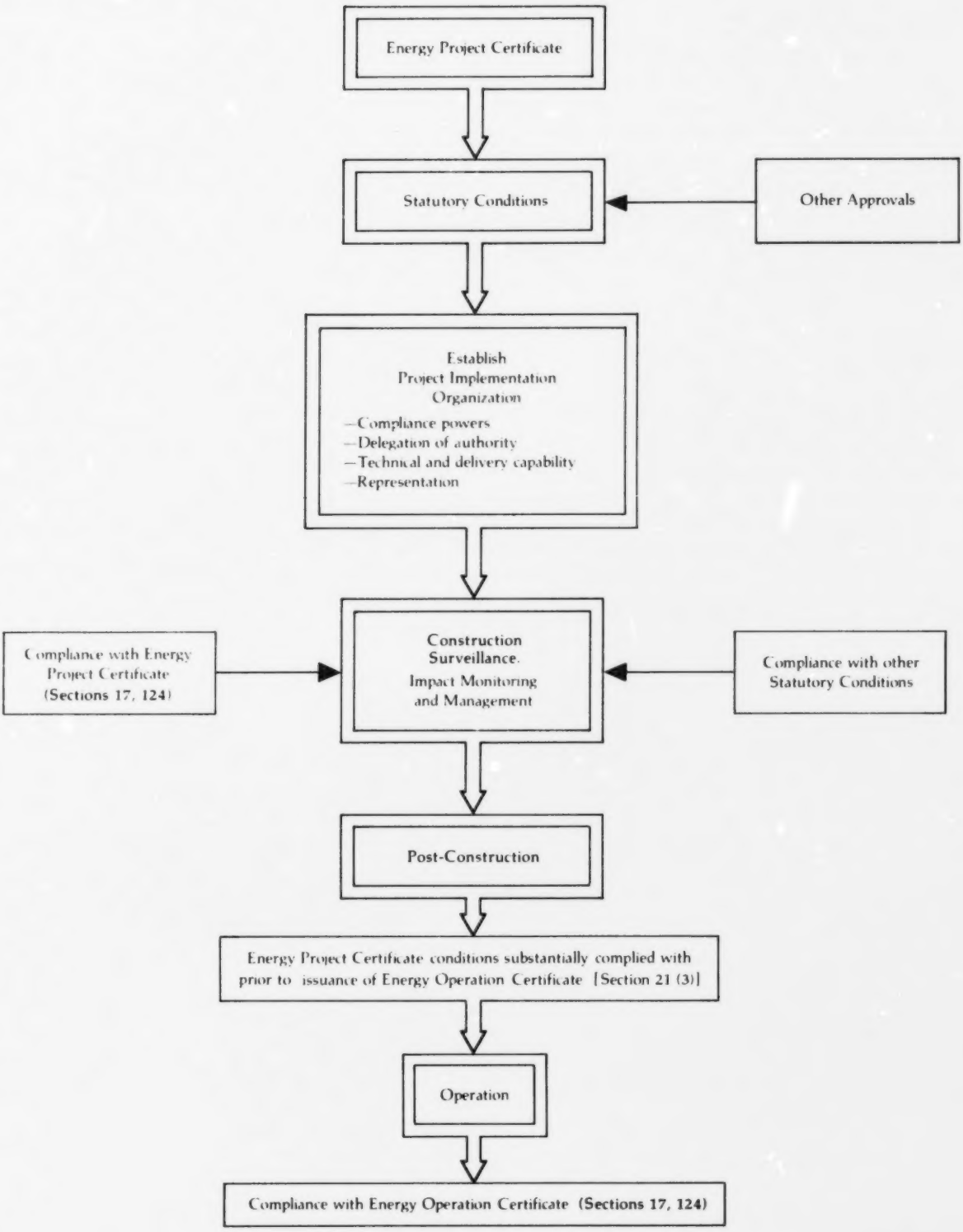
— the manpower, expertise, and program capability to enforce approvals, and to monitor and manage project impacts; and

— mechanisms for identifying and addressing public concerns about project impacts.

For an application from a public utility, referred to the Commission pursuant to Section 19 (1) (b), the Commission is responsible for compliance with conditions of its Certificate of Public Convenience and Necessity. Any surveillance and monitoring reports appropriate to this Certificate would, unless otherwise specified, be submitted directly to the Commission.

FIGURE 3

OUTLINE OF IMPLEMENTATION PHASE



ORGANIZATION FOR IMPLEMENTATION OF CONDITIONS

As noted, the specific organization for implementation of conditions must be guided by a project's characteristics. However, it is possible to identify a general organization for management of impacts.

Two groups, an environmental impact management group and a socio-economic impact management group, could be the appropriate focus for field implementation of conditions (*see* Figure 4). There may be implementation measures which require headquarters action; these could be coordinated, as required, through the existing Energy Project Coordinating Committee in Victoria.

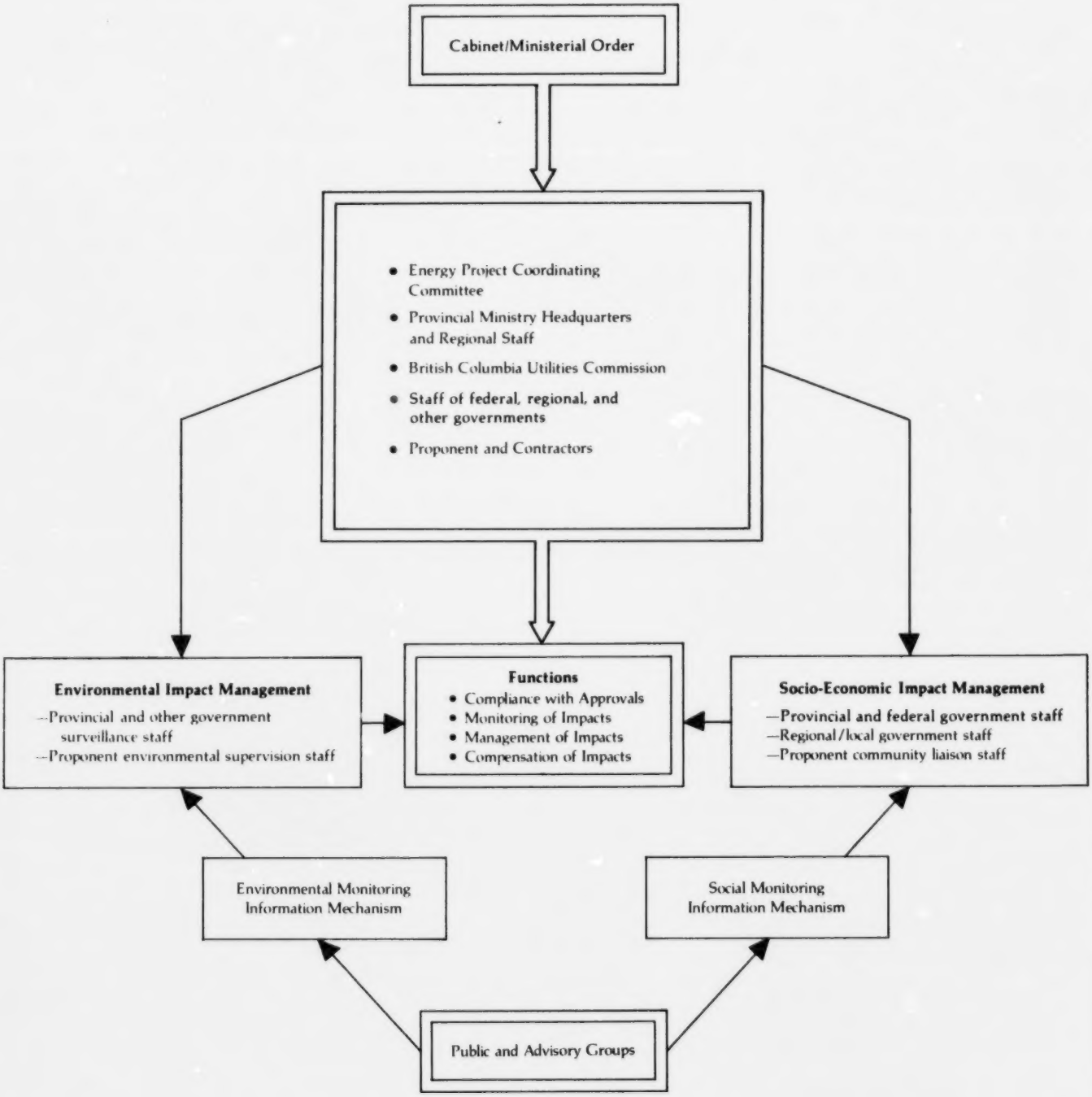
The field groups are a means of coordinating the various statutory and other responsibilities of government agencies. Members of the proposed operational field groups would usually comprise regional staff from relevant provincial ministries, with provision for appropriate coordination with federal, regional, and local government programs. Wherever feasible, they should be small, field-oriented groups responsible for working with the proponent and contractors to ensure day-to-day compliance, monitoring, and impact management.

The focus on field implementation requires that prior approvals and policy direction has been given. Field responsibility will also include refinement of various specific working plans (engineering, environmental, labour, procurement, etc.) which have had approval-in-principle.

Members of such groups would continue to report to their individual agencies regarding particular statutory responsibilities related to project implementation. Inter-ministerial coordination would typically use established Regional Resource Management Committees. Thus, impact management groups would not be independent, but would coordinate impact management responsibilities of existing agencies and serve as a forum for resolving issues in the field. Unresolvable issues would be forwarded to senior headquarters officials and, if necessary, referred to the ministerial level. The key purpose of these groups is to ensure a coordinated and cooperative approach to problem solving during the implementation phase.

FIGURE 4

GENERAL FRAMEWORK FOR MANAGING ENVIRONMENTAL AND SOCIO-ECONOMIC IMPACTS


Cabinet/Ministerial Order
• Energy Project Coordinating Committee
• Provincial Ministry Headquarters and Regional Staff
• British Columbia Utilities Commission
• Staff of federal, regional, and other governments
• Proponent and Contractors
Environmental Impact Management
—Provincial and other government surveillance staff
—Proponent environmental supervision staff
Functions
• Compliance with Approvals
• Monitoring of Impacts
• Management of Impacts
• Compensation of Impacts
Socio-Economic Impact Management
—Provincial and federal government staff
—Regional/local government staff
—Proponent community liaison staff
Environmental Monitoring Information Mechanism
Social Monitoring Information Mechanism
Public and Advisory Groups

The management organization would originate with a Ministerial or Cabinet Order. Relevant agencies could be directed to undertake the surveillance, monitoring and managing of unforeseen impacts, or to serve as a forum for technical consideration and implementation of compensation proposals. The impact management groups could have the direct responsibility for responding to problems which occur as the project proceeds. The groups require capabilities to identify impacts, plus the resources necessary for effective response.

Monitoring of impacts may include collecting information to specifically identify impacts. It might simply involve use of the existing data collection capabilities of government or the proponent. Alternatively, it could entail specific programs established to monitor the effects of a major project. Programs could incorporate opportunities for public input and feedback. Various mechanisms for public input are possible ranging from informal contact to local advisory committees. If advisory committees are established, it would be important to have their terms of reference and relationships with impact management groups clearly defined. Monitoring should be coordinated through the impact management groups to achieve efficiency and consistency.

Any large compensation claims should be determined in the Certificate or Order. However, disputes over details may arise and impact management groups may be able to hear and resolve compensation disputes. Similarly, should arbitration be required, the Certificate or Order may provide procedures whereby an issue is directed to a senior authority with a position of neutrality, fairness and accountability. Several existing authorities could be specified for this purpose.

The general framework for impact management shown in Figure 4 reflects some of the working relationships that already exist for construction of major projects. It can be adapted to meet the specific needs of individual energy projects. The goal is to ensure compliance with project conditions. This appears best done by utilizing existing programs, strengthened by inter-agency coordination in the region where the energy project will be built.

SUMMARY

1. British Columbia's *Utilities Commission Act* provides for the certification of major energy projects, subject to any conditions deemed to be in the public interest by Cabinet, the B.C. Utilities Commission or the Ministers of Energy, Mines and Petroleum Resources and of Environment. Where conditions are established as part of an Energy Project Certificate, Cabinet must be satisfied that these conditions have been complied with before issuance of an Energy Operation Certificate.

2. Two general categories of conditions are possible. The first includes specific mitigation and compensation requirements addressing clearly defined impacts where management action can be specified in advance and incorporated within project plans.

   The second includes conditions for managing impacts which, at the time of project approval, are uncertain. Procedures can be established to respond to such impacts should they occur. These conditions may be general, with their intent being met by submission and review of detailed design plans, plus minor adjustments prior to, during and after, construction.

   Implementing conditions of an Energy Project Certificate may include tasks of construction supervision, surveillance of compliance, environmental and socio-economic monitoring, and management responses to impacts.

3. To meet the intent of B.C. Regulation 388/80, applicants are required to identify a supervision program for ensuring compliance with design plans and mitigation and compensation measures submitted in an application.

   An Energy Project Certificate and Energy Operation Certificate may specify the responsibilities of the certificate holder, government agencies, or joint responsibilities for implementation of conditions.

4. The specific roles of government agencies in the surveillance, monitoring and management of energy projects will depend upon the particulars of each project. Responsibilities for these functions are assigned by Cabinet or Ministerial Order when a project is approved and could include surveillance and monitoring functions related to approvals issued under the *Water Act*, *Waste Management Act* and other statutes, as required.

Assignment of specific functions considers the legal responsibilities, and authority, resources, and capabilities of agencies for undertaking surveillance, monitoring and impact management tasks. Logistics, reporting and specific enforcement procedures for these tasks will reflect the requirements of individual energy projects.

5. Field surveillance and monitoring functions under the *Utilities Commission Act* should be organized to provide reports on the implementation of Certificate conditions to Cabinet, through the Ministry of Energy, Mines and Petroleum Resources, or to the Utilities Commission where certification was granted under Part 3 of the Act.

6. An effective structure for implementing conditions builds upon existing line agencies and inter-agency committees with provision for supplementary staff, as required. This avoids duplication and develops ongoing proficiency in energy project management. The sufficiency of existing programs, staff and committees to undertake implementation roles would have to be determined for each energy project.

7. Two groups, an environmental impact management group and a socio-economic impact management group, could be the appropriate focus for field implementation of conditions. These operational groups would usually be drawn from relevant provincial government agencies, with provision for appropriate coordination with federal, regional and local government programs.

   With access to adequate monitoring data and policy guidance from senior authorities, these operational groups could be assigned responsibility to report on compliance with approved plans, to monitor and manage impacts, and to evaluate technical aspects of compensation claims. These responsibilities could include developing specific reporting procedures, public information and consultation, remedial measures, etc., appropriate to the project.

* * * * *

This technical discussion paper has outlined some general concepts and procedures related to the implementation of conditions for approved energy projects, pursuant to the *Utilities Commission Act*. Development and refinement of these procedures will occur with further experience under the energy project review process.

APPENDICES

APPENDIX ONE

Excerpts from the *Utilities Commission Act,* Part 2 as Amended

UTILITIES COMMISSION ACT

As Amended

PART 2

Interpretation

16. In this Part

"energy" includes every form of energy;

"energy operation certificate" means a certificate issued by the Lieutenant Governor in Council under this Act, authorizing the holder of the certificate to operate a regulated project;

"energy project certificate" means a certificate issued by the Lieutenant Governor in Council under this Act, authorizing the holder of the certificate to construct a regulated project;

"energy resource" means natural gas and oil, and all other forms of petroleum and hydrocarbon, in gaseous or liquid state, and electricity;

"energy transhipment terminal" or "energy storage facility" means a place where an energy resource is accumulated or stored in bulk as part of the process of being transported or distributed;

"energy use project" means a mill, factory, plant, smelter, oil refinery, metal refinery or other undertaking or facility designed to use, convert or process an energy resource or coal, or any combination of them, at the rate of 3 PJ or more a year, and for the purpose of this definition an energy resource other than electricity is used, converted or processed at that rate where it is of a quantity capable of yielding that amount of energy by combustion;

"hydroelectric power plant" means a facility for the generation of electricity, from the motion of water, or the position or potential motion of water, and includes associated dams, diversion works, water conduits and all structures, machinery, appliances, fixtures and equipment;

"regulated project" means

(a) an electric transmission line of 500 kV or higher voltage,

(b) an energy transhipment terminal or energy storage facility, capable of storing an energy resource in a quantity that is capable of yielding by combustion 3 PJ of energy,

(c) an energy use project,

(d) a transmission pipeline, capable of transporting in one year natural gas, oil or solids, or a liquid or gas derived from them, in a quantity that is capable of yielding by combustion 16 PJ of energy,

(e) a hydroelectric power plant that has a capacity of 20 MW or more of electricity,

(f) a thermal electric power plant that has a capacity of 20 MW or more of electricity,

(g) an addition by which 20 MW or more of electric capacity will be added to a hydroelectric or thermal electric power plant,

(h) an addition to a regulated project, referred to in paragraphs (a) to (d), that would if constructed alone fall within the definition of "regulated project", and

(i) an undertaking of any kind that the Lieutenant Governor in Council designates to be significant in the matter of energy;

but "regulated project" does not include

(j) a project that is complete or in operation before this Act comes into force, or

(k) a project in respect of which, before this Act comes into force, site preparation or the fabrication, construction, installation or supply of buildings, equipment, machinery or other facilities has begun;

"review" means a review under section 20;

"thermal electric power plant" means a facility for the generation of electricity from the combustion of natural gas, oil, petroleum products, coal, wood or plant products or from the use of geothermal energy, and includes all associated structures, machinery, appliances, fixtures and equipment, and storage and handling facilities;

"transmission pipeline" means a pipe or system of pipes through which natural gas, oil, solids, or a liquid or gas derived from natural gas, oil or solids, whether in suspension or other form is transported and includes compressor or pumping facilities and other equipment related to the operation of the transmission pipeline, associated terminal or storage facilities, but does not include

(a) flow lines from wells,

(b) secondary lines for gathering that are located within a producing area, or

(c) distribution lines that deliver to ultimate consumers.

Energy project and operation certificates

17. (1) No person shall, except to the extent that he is authorized to do so under section 19, construct or operate a regulated project except in accordance with an energy project certificate or energy operation certificate.

(2) and (3) [Repealed 1982-54-4, proclaimed effective July 28, 1982.]

Application for certificate

18. (1) An application for an energy project certificate or for modification of it or of an energy operation certificate shall be made to the minister and shall contain information the minister prescribes.

(2) The minister may, where

(a) application is made for an energy project certificate, or

(b) he considers it desirable,

invite applications for energy project certificates from other persons who may be interested in undertaking similar or related projects, and may specify a time limit within which the applications must be made.

Minister's disposition of application

19. (1) On receipt of an application under section 18 the minister may

(a) with the concurrence of the Minister of Environment, refer the application to the commission for a review,

(b) order, in a case where the application is made by a public utility, that the application be dealt with by the commission under Part 3 as an application for a certificate of public convenience and necessity, or

(c) with the concurrence of the Minister of Environment, order that the construction and operation of the regulated project is exempt from provisions of this Act specified in the order.

(2) Where the minister refers an application to the commission, he may designate a commissioner or temporary commissioner to act as chairman for the purpose of the review.

(3) An order under subsection (1) (c) may include any conditions that could be included in an energy project certificate or energy operation certificate under section 21 (1) (b), and a person constructing or operating the project is bound by them in the same way as if they had been included in an energy project certificate or energy operation certificate issued to him, and sections 17 and 124 apply.

Review by commission

20. (1) Where an application for an energy project certificate is referred to the commission for a review, the commission shall, subject to subsection (3), hear the application in public hearing in accordance with terms of reference specified jointly by the Minister of Energy, Mines and Petroleum Resources and the Minister of Environment, and on conclusion of the hearing shall submit a report and recommendations to the Lieutenant Governor in Council.

(2) The terms of reference may include either or both of:

(a) a requirement that the commission consider and recommend whether an approval, licence or permit or an amendment to any of them should be made, given or issued under the *Waste Management Act* or section 6, 7, 10 or 11 of the *Water Act*;

(b) a requirement that the commission's hearings of specified applications be consolidated into one hearing.

(3) The commission may, for the purpose of receiving information or evidence that the commission considers is of a confidential character, exclude the public from the hearing while it receives that information or evidence.

Disposition of application by Lieutenant Governor in Council

21. (1) On receiving the report and recommendations of the commission the Lieutenant Governor in Council may order

(a) that the energy project certificate applied for be refused,

(b) that the energy project certificate applied for be issued subject to conditions he considers to be in the public interest, and the conditions may include

(i) a requirement that natural gas used by or in connection with the construction and operation of the project be supplied only under a contract which

(A) includes as parties the British Columbia Petroleum Corporation and the operator of the project, and

(B) includes terms specified by the Lieutenant Governor in Council,

(ii) other conditions that the Lieutenant Governor in Council considers necessary to be included in an energy operation certificate for the project, and

(iii) any requirement the Lieutenant Governor in Council considers necessary respecting the submission of a report to the minister on completion of the project,

(c) that an approval, licence or permit or an amendment to any of them referred to in section 20 (2) be made, given or issued, subject to any terms or conditions the Lieutenant Governor in Council specifies,

and the order is final and binding.

(2) Where the Lieutenant Governor in Council gives a direction referred to in subsection (1) (c), the person, board, tribunal or agency that has, apart from this Act, the authority or power to issue or decide to make, give or issue the approval, licence or permit or amendment shall, notwithstanding anything in the *Waste Management Act* or the *Water Act*, make, give or issue it in accordance with the direction, and the making, giving or issuance is final and not subject to any review or appeal under those Acts.

(3) On completion of a regulated project for which an energy project certificate was issued, the person to whom the certificate was issued shall, in accordance with the regulations and any requirement specified in the energy project certificate, submit a report to the minister, and the Lieutenant Governor in Council shall, on being satisfied that the conditions of the energy project certificate have been substantially complied with, issue an energy operation certificate for the project, and may include in the energy operation certificate the conditions referred to in subsection (1) (b) (i) and (ii).

(4) Where a requirement referred to in subsection (1) (b) (i) is included in an energy project certificate or energy operation certificate,

(a) sections 44, 45, 64, 65, 66, 68, 69 and 70 shall, with respect to the natural gas supplied under the required contract, operate to regulate only the part of the price to be paid for the natural gas by the certificate holder that consists of transportation costs and charges, and

(b) the revenue received by the British Columbia Petroleum Corporation or a public utility in respect of the sale of the natural gas to the holder of the certificate pursuant to the required contract shall not be subject to any levy or other payment pursuant to any agreement made by the municipality before or after this section comes into force under section 646 or 647 of the *Municipal Act*.

(5) No approval, licence or permit or amendment to any of them given, issued or made under subsection (2), shall be varied without the approval of the Lieutenant Governor in Council.

APPENDIX TWO

B.C. Regulation 388/80

B.C. Reg. 388/80 Filed September 16, 1980

UTILITIES COMMISSION ACT

Pursuant to section 18 of the *Utilities Commission Act*, I order that the regulation in the attached schedule be made.

R. H. McCLELLAND
Minister of Energy, Mines and Petroleum Resources

SCHEDULE

Application Requirements Under Section 18 of the Utilities Commission Act

1. An application under section 18 shall contain the following information:

(1) *Application for an Energy Project Certificate*

(a) Applicant

(i) the name, address and nature of business of the applicant and all other persons having a direct interest in the ownership or management of the project;

(ii) evidence of the financial and technical capacity of the applicant and other persons involved, if any, to undertake the project;

(iii) the name, title and address of the person with whom communication should be made respecting the application;

(iv) the name and address of legal counsel for the applicant, if any;

(b) Project Description

(i) a description of the project, its purpose and cost, including all ancillary or related facilities that are proposed to be constructed, owned or operated by the applicant;

(ii) an outline of the anticipated timetable for construction, operation, abandonment and reclamation, as applicable, together with dates by which critical events must take place to ensure continued economic viability;

(iii) a description of any new or expanded public works, undertakings or infra-structure that will be entailed by the project, together with an estimate of the costs and necessary completion dates;

(iv) identification and preliminary assessment of any impacts by the project on the physical, biological and social environments; and proposals for reducing negative impacts and obtaining the maximum benefits from positive impacts;

(c) Project Justification

(i) studies of the technical, economic and financial feasibility of the project, identifying assumptions and sources of data;

(ii) a study estimating the value of all of the project's costs and benefits and their distribution or, where not quantifiable, identifying the cost or benefit and stating that it cannot be quantified;

(d) Ancillary Applications

(i) a list of approvals, permits or licences required under the *Pollution Control Act** and *Water Act*, and whether they are being sought as part of the present application;

(ii) a list of other approvals, permits or licences required under federal, provincial and municipal law;

(e) General

(i) a description of the applicant's public information and consultation program;

(ii) other information as required by the minister, including supplementary information to clarify information contained in the application;

(2) *Application for Modification to an Energy Project Certificate or Energy Operation Certificate*

(a) the name, address and nature of business of any person who has a direct interest in the ownership or management of the project and who did not have an interest at the time of the previous application;

(b) a description of the proposed modification and explanation of its purpose;

(c) an assessment of the effects of the proposed modification in relation to the information and analyses contained in the original application;

(d) other information with, or to supplement, the application as required by the minister, including supplementary information to clarify information contained in the application.

(e) a copy of the existing Energy Project Certificate or Energy Operation Certificate.

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* Replaced September 16, 1982 by the *Waste Management Act*.

APPENDIX THREE

Example of Ministerial Order: Conditions and Compliance

B.C. Hydro and Power Authority's Kelly Lake-Nicola 500,000 Volt Transmission Line

The following excerpts from Ministerial Orders under Section 19 (1) (c) illustrate approval conditions applied by the Ministers, the format for their promulgation and the provision for delegation of responsibilities to officials for the implementation of the approval conditions.

Provisions of the actual Orders have been consolidated for illustrative purposes.

"IN THE MATTER OF THE *UTILITIES COMMISSION ACT*
S.B.C. 1980, c. 60 (hereinafter called "the Act")

and

IN THE MATTER OF AN APPLICATION BY THE BRITISH COLUMBIA HYDRO AND POWER AUTHORITY (hereinafter called "the Authority") FOR AN ENERGY PROJECT CERTIFICATE FOR THE KELLY LAKE SUBSTATION TO NICOLA SUBSTATION 500,000 VOLT TRANSMISSION LINE

AMENDING ORDER # 2

WHEREAS, on October 29, 1981, the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment, inter alia, ordered pursuant to Section 19 (1) (c) of the Act, that the construction and operation of the 500,000 volt transmission line from the Kelly Lake Substation to Nicola Substation (hereinafter called "the Project") by the Authority be exempt from the provisions of Sections 20 and 21 of the Act (hereinafter called "the Order") . . .;

AND WHEREAS, on February 5, 1982, the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment, pursuant to Section 19 (1) (c) of the Act, ordered that the Order be amended (hereinafter called "Amending Order # 1") to provide that the Authority be exempt from the provisions of Sections 51, 53, and 54 of the Act, . . .;

AND WHEREAS, pursuant to Section 18 of the Act, the Authority applied on November 30, 1982, for a modification (hereinafter called "the Modification") of the Order, as amended, with respect to the Project between kilometre 13, and kilometre 42, . . .;

AND WHEREAS, the Modification has been reviewed under the Provincial Energy Project Review Process, and based on this review, it has been determined that the Modification is in the public interest, and will have minimal environmental and social impacts, which can be managed through conditions;

NOW THEREFORE, the Minister of Energy, Mines and Petroleum Resources, with the concurrence of the Minister of Environment, pursuant to Section 19 (1) (c) of the Act, orders that the construction and operation by the Authority of the Modification be exempt from the provisions of Sections 20, 21, 51, 53, and 54 of the Act, and that the construction and operation of the Modification proceed, subject to conditions, as amended below:

AND FURTHER ORDERS THAT (in relation to the Project):

Conditions 1, 2, 3, 4, 5, and 6 of the Order are repealed and the following substituted:

(1) a Project Steering Committee (hereinafter called "the Committee") be constituted to ensure compliance with the Project's conditions;

(2) the Committee include a representative of the Authority, the Ministry of Environment's Fish and Wildlife Branch regional staff, the Ministry of Forests' regional operations staff, the Ministry of Agriculture and Food, the Ministry of Provincial Secretary and Government Services, Heritage Conservation Branch staff, and appropriate Thompson-Okanagan Regional Resource Management Committee members;

(3) the Committee be chaired by the Thompson-Okanagan Regional Resource Management Committee Chairman, or his designate;

(4) the Committee may impose details of and further Environmental and Social Conditions (hereinafter called "the Conditions") for the Project's construction and operation, and the Authority shall comply with such further Conditions and details thereof;

(5) the Authority incorporate into the Conditions all "Mitigative Measures" as identified in the Authority's report entitled "Environmental Review of Kelly Lake-Nicola 500 kv Transmission Line-Hat Creek Bypass, Report No. ESS-69, 8 November 1982", a copy of which is available at the Authority, 555 West Hastings Street, Vancouver, British Columbia and, in particular, the Authority submit reports as required by and to the satisfaction of the Chief, Resource Management Division, Heritage Conservation Branch, Ministry of Provincial Secretary and Government Services, identifying steps taken by the Authority to protect archaeological resources;

(6) the Contractors engaged by the Authority for the implementation of the Project, consult with the Ministry of Environment's Fish and Wildlife Branch regional office in Kamloops, British Columbia, on the subject of rattlesnakes, prior to the onset of construction and all rattlesnake encounters which occur during the clearing and construction phase be referred to the same Ministry of Environment office;

(7) the Authority submit to the Ministry of Environment's Regional Water Resources Manager in Kamloops, British Columbia, all plans for stream crossings along the right of way, in sufficient advance of construction, in order to obtain from the Manager approval for each crossing;

(8) the Authority implement measures necessary for soil conservation, revegetation, and noxious weed control, as outlined in the Ministry of Agriculture and Food's "Guidelines for Linear Development on Agricultural Land" and pursuant to the *Weed Control Act*, R.S.B.C. 1979, c. 432;

(9) the Authority provide the Ministry of Municipal Affairs in Victoria, British Columbia, with the following construction work force information:

(i) number of employees,
(ii) policies and programs related to staff recruitment and training,
(iii) plans for work force accommodation, and
(iv) the project's population impacts;

(10) any concerns arising from (9) above, be resolved satisfactorily prior to project construction;

AND FURTHER ORDERS THAT, the Authority is bound by the above conditions in the same way as if the conditions had been included in an Energy Project Certificate or an Energy Operation Certificate issued to the Authority, and Sections 17 and 124 of the Act apply. . .''

Signed by the Minister of Energy, Mines and Petroleum Resources and the Minister of Environment, as amended February 10, 1983.

APPENDIX FOUR

Major Provincial Agencies Involved in Approvals and Monitoring of Energy Projects

AGENCY	*MONITORING CONCERNS*	*APPROVALS AND COMPLIANCE REQUIREMENTS*	*REGIONAL MANAGEMENT STAFF*
A. ENVIRONMENT AND LAND USE AGENCIES			
Agriculture and Food			
Farmland Resources Agricultural Land Commission	Agricultural land and industry, weed control, revegetation	Permits to remove topsoil located in Agricultural Land Reserves (ALR)	District Agriculturist
Energy, Mines and Petroleum Resources			
Mineral Resources	Resources	Approval to locate in mineral reserve	District Geologist
Petroleum Resources	Resources	Disturbance to petroleum and exploration leases	District Inspector
Energy Resources	Energy project requirements	Energy Project Certificate Energy Operation Certificate	—
Environment			
Planning and Assessment	Coordination of Ministry requirements	Environmental Protection Order, as required	Surveillance and Monitoring Coordinator, Victoria
Fish and Wildlife	Fish and wildlife populations and habitat	Approved mitigation measures. Hunting and fishing regulations	Regional Biologist, Conservation Officers
Marine Resources	Marine aquatic habitat	Approved mitigation measures	Regional Biologist, Conservation Officer

AGENCY	MONITORING CONCERNS	APPROVALS AND COMPLIANCE REQUIREMENTS	REGIONAL MANAGEMENT STAFF
Environment—*Continued*			
Waste Management	Emissions and discharges, pollutant spills	Approvals and Permits for Waste Management	Regional Waste Manager
Water Management	Construction near streams, water withdrawals	Water Licence approval	Regional Water Manager
Pesticide Control	Use of herbicides and pesticides	Pesticide control Permit	Regional Pesticide Control Manager
Forests			
Regional Operations	Timber clearing and disposal, access roads	Cutting Permit, Burning Permit	Regional Forest Manager, District Forest Manager, Zone Forester.
Lands, Parks and Housing			
Lands and Housing Regional Operations	Use of Crown land	Crown land lease approval	Regional Director
Parks and Outdoor Recreation	Use of provincial park land	Park use Permit	Regional Director
Provincial Secretary and Government Services			
Heritage Conservation	Heritage sites	Permit to excavate or alter Heritage sites	—
Transportation and Highways			
Engineering and Inspection	Provincially regulated pipelines, railways, tramways	Certificate to construct and operate	Chief Inspector
Motor Vehicle	Commercial transportation	Vehicle Permits	Local Weigh Stations
Highways	Public highways and industrial roads	Approval of access and logistics plans	Regional Approving Officer
B. SOCIAL AND ECONOMIC AGENCIES			
Attorney General			
Court Services	Program facility demands	—	Regional and District Managers
Federal RCMP and local police services	Security measures	—	Royal Canadian Mounted Police, local police
Coordinator of Native Indian Programs	Indian community impacts, infrastructure and services Indian Reserve Land and resource uses	—	—
Fire Commissioner's Office	Fuel storage, fire prevention	Permit for fuel storage	District Fire Commissioner

AGENCY	MONITORING CONCERNS	APPROVALS AND COMPLIANCE REQUIREMENTS	REGIONAL MANAGEMENT STAFF
Education			
—	Program/facility demands	Approval of additional services/facilities	Local school boards and staff, regional colleges
Health			
—	Construction camps, diagnostic and treatment services, emergency services, facilities planning, community health services	Regulations for the sanitary control of industrial camps. Ministry approval of additional services. Regional Hospital District approval for planning hospital services	Local regional hospital boards and staff, Union Board of Health, Medical Health Officer and Ministry Staff, Zone coordinators for Emergency Health
Human Resources			
—	Family and children's services	—	Regional Administrator
Industry and Small Business Development			
—	Procurement opportunities	Procurement Policy Guidelines	Business Development Staff (Vancouver)
Labour			
Employment Standards	Work conditions, labour	*Labour Standards Act*	Regional Staff
Human Rights	Discrimination	*Human Rights Act*	—
Occupational Environment	Health and safety in factories	Licences	—
Apprenticeship and Manpower Training	Recruitment and training	Manpower Plan	—
Safety Engineering	Gas, electric, boiler construction and operation	Certificate to Construct and Operate	Chief Inspector
Lands, Parks and Housing			
Parks	Demands for parks and outdoor recreation activities	Park use Permit, Resource use Permit	Regional Director
Housing Programs	Housing demands	—	Regional Director
Municipal Affairs			
—	Community and settlement impacts, infrastructure development. Local government structure and finances	Municipal bylaws	Regional District, Local Councils
Provincial Secretary and Government Services			
Recreation and Fitness	Recreational programs and facilities	—	—

Queen's Printer for British Columbia ©
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POOR

QUALITY

ORIGINAL